



THE COMMITTEE ON ENERGY AND COMMERCE

INTERNAL MEMORANDUM

March 23, 2012

To: Energy and Commerce Committee Members

From: Majority Staff

Re: Examining the Current State of Cosmetics

On Tuesday, March 27, 2012, at 10:15 a.m. in 2322 Rayburn House Office Building, the Subcommittee on Health will hold a hearing entitled “Examining the Current State of Cosmetics.” The following provides background on the hearing.

I. WITNESSES¹

Panel I

Michael M. Landa, J.D.
Director
Center for Food Safety and Applied Nutrition (CFSAN)
U.S. Food and Drug Administration (FDA)

Panel II

Halyna Breslawec, Ph.D.
Chief Scientist and Executive Vice President for Science
The Personal Care Products Council

Peter Barton Hutt, J.D.
Senior Counsel
Covington & Burling, LLP

Mr. Curran Dandurand
Co-Founder and Chief Executive Officer
Jack Black Skincare

Ms. Debbie May
President and Chief Executive Officer
Wholesale Supplies Plus

¹ Additional witnesses will be added.

II. BACKGROUND

The cosmetics industry has been regulated by FDA since the enactment of the Federal Food, Drug and Cosmetic Act of 1938 (FFDCA). Currently, FDA's CFSAN is responsible for regulating cosmetics. Similar to drugs, devices and food, the FFDCA prohibits the introduction of adulterated or misbranded cosmetics into interstate commerce and provides for seizure, criminal penalties and other enforcement authorities for violations of the FFDCA. In addition, under the authority of the Fair Packaging and Labeling Act (FPLA), FDA requires an ingredient declaration for cosmetics to enable consumers to make informed purchasing decisions. Cosmetics that fail to comply with the FPLA are considered misbranded under the FFDCA.

Under current law, FDA cannot require cosmetic facilities to register, but FDA does allow these facilities to do so voluntarily through the Voluntary Cosmetic Registration Program (VCRP). Once a company registers, FDA assigns a registration number to each manufacturing establishment. The VCRP also allows for the filing of a cosmetic product ingredient statement for each product the firm has entered into commercial distribution in the United States. Under the FFDCA, FDA has authority to inspect cosmetic manufacturing facilities.

One organization important to the safety of cosmetics is the Cosmetic Ingredient Review (CIR). According to FDA, the CIR expert panel "is an independent, industry-funded panel of medical and scientific experts that meets quarterly to assess the safety of cosmetic ingredients based on data in the published literature as well as some that is voluntarily provided by the cosmetic industry. The industry data may or may not be complete. FDA takes the results of CIR reviews into consideration when evaluating safety, but the results of FDA safety assessments may differ from those of CIR." FDA representatives do attend CIR meetings in a non-voting capacity.

In recent years, some States have considered legislation that would affect the ingredients that can be used in cosmetic products. Some groups have called for national standards for ingredients of cosmetic products that are reviewed by the FDA. Given the flow of cosmetic products between States, a uniform standard for cosmetic ingredients would serve to further public health by ensuring these decisions are made using sound science and ensure that the interstate flow of cosmetic products is not disrupted by differing State standards.

The FDA's resources devoted to cosmetics have increased significantly in recent years. In Fiscal Year 2007, the cosmetic activities at FDA received \$3.5 million in funding. In Fiscal Year 2012, the funding increased to \$11.2 million.

III. CONCLUSION

Should you have any questions regarding the hearing, please contact Clay Alspach or Ryan Long at (202) 225-2927.